



Texas Advisory Board of Occupational Therapy

4900 North Lamar Austin, Texas 78751-2316 512/480-4072

ID# 14057
mJ

RQ-246

September 6, 1991

The Honorable Dan Morales
Attorney General of Texas
Office of The Attorney General of Texas
Supreme Court Building
P. O. Box 12548
Austin, Texas 78711-2548

Att. Opinion Committee

~~RECEIVED~~

OCT 29 91

Opinion Committee

Dear General Morales:

Pursuant to TEX. CONST. art. IV, Sec. 22 and TEX. REV. CIV. STAT. ANN. art. 4399, the Texas Advisory Board of Occupational Therapy (hereinafter "TABOT") requests your official opinion on the following question of law in which the TABOT has an immediate official interest.

The TABOT is requesting your opinion as to whether the term "chiropractic physician" (as that term relates to a licensed chiropractor under the Texas Board of Chiropractic Examiners) means a "physician" as that term is used in the Occupational Therapy Title Act administered by the TABOT. Controversy over this matter has arisen between the respective parties who provide occupational therapy. TABOT contends that the term "physician" as used under the Occupational Therapy Act refers to medical doctors licensed under the Medical Practice Act (TEX. REV. CIV. STAT. ANN. art. 4495). This term is used in two provisions of the Occupational Therapy Title Act (TEX. REV. CIV. STAT. ANN. art. 8851):

Sec. 15(b)(6) any qualified and properly trained person or persons acting under a physician's supervision pursuant to Subdivision (1) of Subsection (d) of Section 3.06 of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

Sec. 27. An occupational therapist may enter a case for the purposes of providing consultation and monitored services and evaluating an individual for the need of services. Implementation of direct occupational therapy to individuals for their specific medical conditions shall be based on a referral from a physician licensed to practice in the State of Texas.

Op. Tex. Att'y Gen. No. JM-1279 dealt with the issue of whether a chiropractor may use the title "chiropractic physician". The summary decision of that opinion states:

The Texas Board of Chiropractic Examiners is authorized to promulgate a rule permitting its licensees to employ the term "chiropractic physician," if the phrase is employed in addition to one of the terms or phrases that the board's licensees are required to employ by article 4590e, V.T.C.S.

As a result, the opportunity exists and the reality is that "chiropractic physicians" can (are) supervise occupational therapists and make referrals to occupational therapists for services.

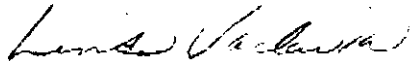
JM-1279 and this apparent ambiguity result in conflicts between various state laws, licensing boards and professions. It has been the practice of the TABOT that these provisions applied only to medical physicians and has accordingly promulgated its administrative rules at 40 TAC Sec. 383.1:

383.1(a) The Act, Sec. 27, specifies that implementation of direct occupational therapy to individuals for their specific medical conditions shall be based on a referral from a physician licensed to practice medicine in the State of Texas.

The TABOT respectfully requests an opinion on this matter. Thank you for your assistance.

Sincerely,

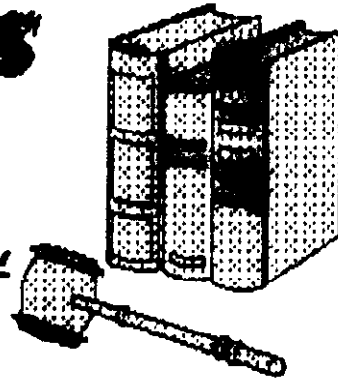
Texas Advisory Board of Occupational Therapy



By: Linda Vaclavik
Executive Director

LV:WBC:aml

LEGAL SERVICES
DIVISION
FAX TRANSMITTAL



DATE 10-29-91

TO: C. Pinson Committee

OFFICE: Atty Gen. 512-463-2092

FROM: William B. Churchill, General Counsel

PAGES: three

COMMENTS: All contacts to Mr. Churchill
at address below. Send
Request No. to him



-----AS REQUESTED

-----FOR YOUR ACTION

-----PLEASE CONTACT ME

-----FOR YOUR INFO

-----FOR YOUR SIGNATURE

-----FOR YOUR COMMENTS

TEXAS REHABILITATION COMMISSION
LEGAL SERVICES DIVISION
4000 N. LAMAR BLVD.
AUSTIN, TEXAS 78751-3516
512/463-4000 FAX: 463-4059